

## **Chapter 90.64 RCW DAIRY NUTRIENT MANAGEMENT**

**(Formerly Dairy waste management)**

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### **RCW 90.64.005**

#### **Findings.**

The legislature finds that there is a need to establish a clear and understandable process that provides for the proper and effective management of dairy nutrients that affect the quality of surface or ground waters in the state of Washington. The legislature finds that there is a need for a program that will provide a stable and predictable business climate upon which dairy farms may base future

investment decisions.

The legislature finds that federal regulations require a permit program for dairies with over seven hundred head of mature cows and, other specified dairy farms that directly discharge into waters or are otherwise significant contributors of pollution. The legislature finds that significant work has been ongoing over a period of time and that the intent of this chapter is to take the consensus that has been developed and place it into statutory form.

It is also the intent of this chapter to establish an inspection and technical assistance program for dairy farms to address the discharge of pollution to surface and ground waters of the state that will lead to water quality compliance by the industry. A further purpose is to create a balanced program involving technical assistance, regulation, and enforcement with coordination and oversight of the program by a \*committee composed of industry, agency, and other representatives. Furthermore, it is the objective of this chapter to maintain the administration of the water quality program as it relates to dairy operations at the state level.

It is also the intent of this chapter to recognize the existing working relationships between conservation districts, the conservation commission, and the department of ecology in protecting water quality of the state. A further purpose of this chapter is to provide statutory recognition of the coordination of the functions of conservation districts, the conservation commission, and the department of ecology pertaining to development of dairy waste management plans for the protection of water quality.

[1998 c 262 § 1; 1993 c 221 § 1.]

#### **NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

#### **RCW 90.64.010**

##### **Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "\*Advisory and oversight committee" means a balanced committee of agency, dairy farm, and interest group representatives convened to provide oversight and direction to the dairy nutrient management program.

(2) "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

(3) "Catastrophic" means a tornado, hurricane, earthquake, flood, or other extreme condition that causes an overflow from a required waste retention structure.

(4) "Certification" means:

(a) The acknowledgment by a local conservation district that a dairy producer has constructed or otherwise put in place the elements necessary to implement his or her dairy nutrient management plan; and

(b) The acknowledgment by a dairy producer that he or she is managing dairy nutrients as specified in his or her approved dairy nutrient management plan.

(5) "Chronic" means a series of wet weather events that precludes the proper operation of a dairy nutrient management system that is designed for the current herd size.

(6) "Conservation commission" or "commission" means the conservation commission under chapter [89.08](#) RCW.

(7) "Conservation districts" or "district" means a subdivision of state government organized under chapter [89.08](#) RCW.

(8) "Concentrated dairy animal feeding operation" means a dairy animal feeding operation subject to regulation under this chapter which the director designates under RCW [90.64.020](#) or meets the following criteria:

(a) Has more than seven hundred mature dairy cows, whether milked or dry cows, that are confined; or

(b) Has more than two hundred head of mature dairy cattle, whether milked or dry cows, that are confined and either:

(i) From which pollutants are discharged into navigable waters through a manmade ditch, flushing system, or other similar manmade device; or

(ii) From which pollutants are discharged directly into surface or ground waters of the state that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(9) "Dairy animal feeding operation" means a lot or facility where the following conditions are met:

(a) Dairy animals that have been, are, or will be stabled or confined and fed for a total of forty-five days or more in any twelve-month period; and

(b) Crops, vegetation forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more dairy animal feeding operations under common ownership are considered, for the purposes of this chapter, to be a single dairy animal feeding operation if they adjoin each other or if they use a common area for land application of wastes.

(10) "Dairy farm" means any farm that is licensed to produce milk under chapter [15.36](#) RCW.

(11) "Dairy nutrient" means any organic waste produced by dairy cows or a dairy farm operation.

(12) "Dairy nutrient management plan" means a plan meeting the requirements established under RCW [90.64.026](#).

(13) "Dairy nutrient management technical assistance team" means one or more professional engineers and local conservation district employees convened to serve one of four distinct geographic areas in the state.

(14) "Dairy producer" means a person who owns or operates a dairy farm.

(15) "Department" means the department of ecology under chapter [43.21A](#) RCW.

(16) "Director" means the director of the department of ecology, or his or her designee.

(17) "Upset" means an exceptional incident in which there is an unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the dairy. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(18) "Violation" means the following acts or omissions:

(a) A discharge of pollutants into the waters of the state, except those discharges that are due to a chronic or catastrophic event, or to an upset as provided in 40 C.F.R. Sec. 122.41, or to a bypass as provided in 40 C.F.R. Sec. 122.41, and that occur when:

(i) A dairy producer has a current national pollutant discharge elimination system permit with a wastewater system designed, operated, and maintained for the current herd size and that contains all process-generated wastewater plus average annual precipitation minus evaporation plus contaminated storm water runoff from a twenty-five year, twenty-four hour rainfall event for that specific location, and the dairy producer has complied with all permit conditions, including dairy nutrient management plan conditions for appropriate land application practices; or

(ii) A dairy producer does not have a national pollutant discharge elimination system permit, but has complied with all of the elements of a dairy nutrient management plan that: Prevents the discharge of pollutants to waters of the state, is commensurate with the dairy producer's current herd size, and is approved and certified under RCW [90.64.026](#);

(b) Failure to register as required under RCW [90.64.017](#); or

(c) The lack of an approved dairy nutrient management plan by July 1, 2002; or

(d) The lack of a certified dairy nutrient management plan for a dairy farm after December 31, 2003.

[1998 c 262 § 2; 1993 c 221 § 2.]

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.015**

**Environmental excellence program agreements -- Effect on chapter.**

Notwithstanding any other provision of law, any legal requirement under this chapter, including any standard, limitation, rule, or order is superseded and replaced in accordance with the terms and provisions of an environmental excellence program agreement, entered into under chapter [43.21K](#) RCW.

[1997 c 381 § 29.]

**NOTES:**

**Purpose -- 1997 c 381:** See RCW [43.21K.005](#).

**RCW 90.64.017**

**Registration of dairy producers -- Information required --**

## **Information to producers regarding chapter.**

(1) Every dairy producer licensed under chapter [15.36](#) RCW shall register with the department by September 1, 1998, and shall reregister with the department by September 1st of every even-numbered year. Every dairy producer licensed after September 1, 1998, shall register with the department within sixty days of licensing. The purpose of registration is to provide and update baseline information for the dairy nutrient management program.

(2) To facilitate registration, the department shall obtain from the food safety and animal health division of the department of agriculture a current list of all licensed dairy producers in the state and mail a registration form to each licensed dairy producer no later than July 15, 1998.

(3) At a minimum, the form shall require the following information as of the date the form is completed:

(a) The name and address of the operator of the dairy farm;

(b) The name and address of the dairy farm;

(c) The telephone number of the dairy farm;

(d) The number of cows in the dairy farm;

(e) The number of young stock in the dairy farm;

(f) The number of acres owned and rented in the dairy farm;

(g) Whether the dairy producer, to the best of his or her knowledge, has a plan for managing dairy nutrient discharges that is commensurate with the size of his or her herd, and whether the plan is being fully implemented; and

(h) If the fields where dairy nutrients are being applied belong to someone other than the dairy producer whose farm operation generated the nutrients, the name, address, and telephone number of the owners of the property accepting the dairy nutrients.

(4) In the mailing to dairy producers containing the registration form, the department shall also provide clear and comprehensive information regarding the requirements of this chapter.

(5) The department shall require the registrant to provide only information that is not already available from other sources accessible to the department, such as dairy licensing information.

[1998 c 262 § 3.]

**RCW 90.64.020**

**Concentrated dairy animal feeding operation -- Designation -- Permit.**

(1) The director of the department of ecology may designate any dairy animal feeding operation as a concentrated dairy animal feeding operation upon determining that it is a significant contributor of pollution to the surface or ground waters of the state. In making this designation the director shall consider the following factors:

(a) The size of the animal feeding operation and the amount of wastes reaching waters of the state;

(b) The location of the animal feeding operation relative to waters of the state;

(c) The means of conveyance of animal wastes and process waters into the waters of the state;

(d) The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process waste waters into the waters of the state; and

(e) Other relevant factors as established by the department by rule.

(2) A notice of intent to apply for a permit shall not be required from a concentrated dairy animal feeding operation designated under this section until the director has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the permit program.

[1993 c 221 § 3.]

**RCW 90.64.023**

**Inspection program.**

(1) By October 1, 1998, the department shall initiate an inspection program of all dairy farms in the state. The purpose of the inspections is to:

(a) Survey for evidence of violations;

(b) Identify corrective actions for actual or imminent discharges that violate or could violate the state's water quality standards;

(c) Monitor the development and implementation of dairy nutrient

management plans; and

(d) Identify dairy producers who would benefit from technical assistance programs.

(2) Local conservation district employees may, at their discretion, accompany department inspectors on any scheduled inspection of dairy farms except random, unannounced inspections.

(3) Follow-up inspections shall be conducted by the department to ensure that corrective and other actions as identified in the course of initial inspections are being carried out. The department shall also conduct such additional inspections as are necessary to ensure compliance with state and federal water quality requirements, provided that all licensed dairy farms shall be inspected once within two years of the start of this program. The department, in consultation with the \*advisory and oversight committee established in section 8 of this act, shall develop performance-based criteria to determine the frequency of inspections.

(4) Dairy farms shall be prioritized for inspection based on the development of criteria that include, but are not limited to, the following factors:

(a) Existence or implementation of a dairy nutrient management plan;

(b) Proximity to impaired waters of the state; and

(c) Proximity to all other waters of the state. The criteria developed to implement this subsection (4) shall be reviewed by the \*advisory and oversight committee.

[1998 c 262 § 5.]

#### **NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

#### **RCW 90.64.026**

**Dairy nutrient management plans -- Elements -- Approval -- Timelines -- Certification.**

(1) Except for those producers who already have a certified dairy nutrient management plan as required under the terms and conditions of an individual or general national pollutant discharge elimination system permit, all dairy producers licensed under chapter [15.36](#) RCW,



regardless of size, shall prepare a dairy nutrient management plan. If at any time a dairy nutrient management plan fails to prevent the discharge of pollutants to waters of the state, it shall be required to be updated.

(2) By November 1, 1998, the conservation commission, in conjunction with the \*advisory and oversight committee established under section 8 of this act shall develop a document clearly describing the elements that a dairy nutrient management plan must contain to gain local conservation district approval.

(3) In developing the elements that an approved dairy nutrient management plan must contain, the commission may authorize the use of other methods and technologies than those developed by the natural resources conservation service when such alternatives have been evaluated by the \*advisory and oversight committee. Alternative methods and technologies shall meet the standards and specifications of:

(a) The natural resources conservation service as modified by the geographically based standards developed under RCW [90.64.140](#); or

(b) A professional engineer with expertise in the area of dairy nutrient management.

(4) In evaluating alternative technologies and methods, the principal objectives of the \*committee's evaluation shall be determining:

(a) Whether there is a substantial likelihood that, once implemented, the alternative technologies and methods would not violate water quality requirements;

(b) Whether more cost-effective methods can be successfully implemented in some or all categories of dairy operations; and

(c) Whether the technologies and methods approved or provided by the natural resources conservation service for use by confined animal feeding operations are necessarily required for other categories of dairy operations.

In addition, the \*committee shall encourage the conservation commission and the conservation districts to apply in dairy nutrient management plans technologies and methods that are appropriate to the needs of the specific type of operation and the specific farm site and to avoid imposing requirements that are not necessary for the specific dairy producer to achieve compliance with water quality requirements.

(5) Such plans shall be submitted for approval to the local conservation district where the dairy farm is located, and shall be approved by conservation districts no later than by July 1, 2002. The conservation commission, in conjunction with conservation districts, shall develop a state-wide schedule of plan development and approval to ensure adequate resources are available to have all plans approved by July 1, 2002.

(6) If a dairy producer leases land for dairy production from an owner who has prohibited the development of capital improvements, such as storage lagoons, on the leased property, the dairy producer shall indicate in his or her dairy nutrient management plan that such improvements are prohibited by the landowner and shall describe other methods, such as land application, that will be employed by the dairy producer to manage dairy nutrients.

(7) Notwithstanding the timelines in this section, any dairy farm licensed after September 1, 1998, shall have six months from the date of licensing to develop a dairy nutrient management plan and another eighteen months to fully implement that plan.

(8) If a plan contains the elements identified in subsection (2) of this section, a conservation district shall approve the plan no later than ninety days after receiving the plan. If the plan does not contain the elements identified in subsection (2) of this section, the local conservation district shall notify the dairy producer in writing of modifications needed in the plan no later than ninety days after receiving the plan. The dairy producer shall provide a revised plan that includes the needed modifications within ninety days of the date of the local conservation district notification. If the dairy producer does not agree with, or otherwise takes exception to, the modifications requested by the local conservation district, the dairy producer may initiate the appeals process described in RCW [90.64.028](#) within thirty days of receiving the letter of notification.

(9) An approved plan shall be certified by a conservation district and a dairy producer when the elements necessary to implement the plan have been constructed or otherwise put in place, and are being used as designed and intended. A certification form shall be developed by the conservation commission for use state-wide and shall provide for a signature by both a conservation district representative and a dairy producer. Certification forms shall be signed by December 31, 2003, and a copy provided to the department for recording in the data base established in RCW [90.64.130](#).

(10) The ability of dairy producers to comply with the planning requirements of this chapter depends, in many cases, on the availability of federal and state funding to support technical assistance provided by local conservation districts. Dairy producers shall not be held responsible for noncompliance with the planning

requirements of this chapter if conservation districts are unable to perform their duties under this chapter because of insufficient funding.

[1998 c 262 § 6.]

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.028**

**Appeals from denial of plan approval or certification -- Dairy producer-requested hearings -- Extension of timelines.**

(1) Conservation district decisions pertaining to denial of approval or denial of certification of a dairy nutrient management plan; modification or amendment of a plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and the failure to adhere to plan review and approval timelines identified in RCW [90.64.026](#) are appealable under this chapter. Department actions pertaining to water quality violations are appealable under chapter [90.48](#) RCW.

In addition, a dairy producer who is constrained from complying with the planning requirements of this chapter because of financial hardship or local permitting delays may request a hearing before the conservation commission and may request an extension of up to one year beyond the approval and certification dates prescribed in this chapter for plan approval and certification.

(2) Within thirty days of receiving a local conservation district notification regarding any of the decisions identified in subsection (1) of this section, a dairy producer who disagrees with any of these decisions may request an informal hearing before the conservation commission or may appeal directly to the pollution control hearings board. The commission shall issue a written decision no later than thirty days after the informal hearing.

(3) If the conservation commission reverses the decision of the conservation district, the conservation district may appeal this reversal to the pollution control hearings board according to the procedure in chapter [43.21B](#) RCW within thirty days of receipt of the commission's decision.

(4) When an appeals process is initiated under this section, the length of time extending from the start of the appeals process to its conclusion shall be added onto the timelines provided in this chapter

for plan development, approval, and certification only if an appeal is heard by the pollution control hearings board.

[1998 c 262 § 7.]

**RCW 90.64.030**

**Investigation of dairy farms--Report of findings -- Corrective action  
-- Violations of water quality laws -- Waivers -- Penalties.**

(1) Under the inspection program established in RCW [90.64.023](#), the department may investigate a dairy farm to determine whether the operation is discharging pollutants or has a record of discharging pollutants into surface or ground waters of the state. Upon concluding an investigation, the department shall make a written report of its findings, including the results of any water quality measurements, photographs, or other pertinent information, and provide a copy of the report to the dairy producer within twenty days of the investigation.

(2) The department shall investigate a written complaint filed with the department within three working days and shall make a written report of its findings including the results of any water quality measurements, photographs, or other pertinent information. A copy of the findings shall be provided to the dairy producer subject to the complaint within twenty days. Only findings of violations shall be entered into the data base identified in RCW [90.64.130](#).

(3) A dairy farm that is determined to be a significant contributor of pollution based on actual water quality tests, photographs, or other pertinent information is subject to the provisions of this chapter and to the enforcement provisions of chapters [43.05](#) and [90.48](#) RCW, including civil penalties levied under RCW [90.48.144](#).

(4) If the department determines that an unresolved water quality problem from a dairy farm requires immediate corrective action, the department shall notify the producer and the district in which the problem is located. When corrective actions are required to address such unresolved water quality problems, the department shall provide copies of all final dairy farm inspection reports and documentation of all formal regulatory and enforcement actions taken by the department against that particular dairy farm to the local conservation district and to the appropriate dairy farm within twenty days.

(5) For a violation of water quality laws that is a first offense for a dairy producer, the penalty may be waived to allow the producer to come into compliance with water quality laws. The department shall record all legitimate violations and subsequent enforcement actions.

(6) A discharge, including a storm water discharge, to surface waters of the state shall not be considered a violation of this chapter, chapter [90.48](#) RCW, or chapter [173-201A](#) WAC, and shall therefore not be enforceable by the department of ecology or a third party, if at the time of the discharge, a violation is not occurring under RCW [90.64.010](#)(18). In addition, a dairy producer shall not be held liable for violations of this chapter, chapter [90.48](#) RCW, chapter [173-201A](#) WAC, or the federal clean water act due to the discharge of dairy nutrients to waters of the state resulting from spreading these materials on lands other than where the nutrients were generated, when the nutrients are spread by persons other than the dairy producer or the dairy producer's agent.

(7) As provided under RCW [7.48.305](#), agricultural activities associated with the management of dairy nutrients are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on public health and safety.

(8) This section specifically acknowledges that if a holder of a general or individual national pollutant discharge elimination system permit complies with the permit and the dairy nutrient management plan conditions for appropriate land application practices, the permit provides compliance with the federal clean water act and acts as a shield against citizen or agency enforcement for any additions of pollutants to waters of the state or of the United States as authorized by the permit.

(9) A dairy producer who fails to have an approved dairy nutrient management plan by July 1, 2002, or a certified dairy nutrient management plan by December 31, 2003, and for which no appeals have been filed with the pollution control hearings board, is in violation of this chapter. Each month beyond these deadlines that a dairy producer is out of compliance with the requirement for either plan approval or plan certification shall be considered separate violations of chapter [90.64](#) RCW that may be subject to penalties. Such penalties may not exceed one hundred dollars per month for each violation up to a combined total of five thousand dollars. Failure to register as required in RCW [90.64.017](#) shall subject a dairy producer to a maximum penalty of one hundred dollars. Penalties shall be levied by the department.

[1998 c 262 § 11; 1993 c 221 § 4.]

#### **RCW 90.64.040**

#### **Appeal from actions and orders of the department.**

Enforcement actions and administrative orders issued by the department of ecology may be appealed to the pollution control hearings board in accordance with the provisions of chapter [43.21B](#)

RCW.

[1993 c 221 § 5.]

**RCW 90.64.050**

**Duties of department -- Annual report to commission.**

(1) The department has the following duties:

(a) Identify existing or potential water quality problems resulting from dairy farms through implementation of the inspection program in RCW [90.64.023](#);

(b) Inspect a dairy farm upon the request of a dairy producer;

(c) Receive, process, and verify complaints concerning discharge of pollutants from all dairy farms;

(d) Determine if a dairy-related water quality problem requires immediate corrective action under the Washington state water pollution control laws, chapter [90.48](#) RCW, or the Washington state water quality standards adopted under chapter [90.48](#) RCW. The department shall maintain the lead enforcement responsibility;

(e) Administer and enforce national pollutant discharge elimination system permits for operators of concentrated dairy animal feeding operations, where required by federal regulations and state laws or upon request of a dairy producer;

(f) Participate on the \*advisory and oversight committee;

(g) Encourage communication and cooperation between local department personnel and the appropriate conservation district personnel;

(h) Require the use of dairy nutrient management plans as required under this chapter for entities required to plan under this chapter; and

(i) Provide to the commission and the \*advisory and oversight committee an annual report of dairy farm inspection and enforcement activities.

(2) The department may not delegate its responsibilities in enforcement.

[1998 c 262 § 12; 1993 c 221 § 6.]

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.070**

**Duties of conservation district.**

(1) The conservation district has the following duties:

(a) Provide technical assistance to the department in identifying and correcting existing water quality problems resulting from dairy farms through implementation of the inspection program in RCW [90.64.023](#);

(b) Immediately refer complaints received from the public regarding discharge of pollutants to the department;

(c) Encourage communication and cooperation between the conservation district personnel and local department personnel;

(d) Provide technical assistance to dairy producers in developing and implementing a dairy nutrient management plan; and

(e) Review, approve, and certify dairy nutrient management plans that meet the minimum standards developed under this chapter.

(2) The district's capability to carry out its responsibilities under this chapter is contingent upon the availability of funding and resources to implement a dairy nutrient management program.

[1998 c 262 § 13; 1993 c 221 § 8.]

**RCW 90.64.080**

**Duties of conservation commission.**

(1) The conservation commission has the following duties:

(a) Provide assistance as may be appropriate to the conservation districts in the discharge of their responsibilities as management agencies in dairy nutrient management program implementation;

(b) Provide coordination for conservation district programs at the state level through special arrangements with appropriate federal and state agencies, including oversight of the review, approval, and certification of dairy nutrient management plans;

(c) Inform conservation districts of activities and experiences of other conservation districts relative to agricultural water quality protection, and facilitate an interchange of advice,



experience, and cooperation between the districts;

(d) Provide an informal hearing for disputes between dairy producers and local conservation districts pertaining to: (i) Denial of approval or denial of certification of dairy nutrient management plans; (ii) modification or amendment of plans; (iii) conditions contained in plans; (iv) application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and (v) the failure to adhere to the plan review and approval timelines identified in RCW [90.64.026](#). An informal hearing may also provide an opportunity for dairy producers who are constrained from timely compliance with the planning requirements of this chapter because of financial hardship or local permitting delays to petition for additional time to comply;

(e) Encourage communication between the conservation district personnel and local department personnel;

(f) Accept nominations and appoint members to serve on the \*advisory and oversight committee with advice of the Washington association of conservation districts and the department;

(g) Provide a cochair to the \*advisory and oversight committee;

(h) Report to the legislature by December 1st of each year until 2003 on the status of dairy nutrient management planning and on the technical assistance provided to dairy producers in carrying out the requirements of this chapter; and

(i) Work with the department to provide communication outreach to representatives of agricultural and environmental organizations to receive feedback on implementation of this chapter.

(2) The commission's capability to carry out its responsibilities under this chapter is contingent upon the availability of funding and resources to implement a dairy nutrient management program.

[1998 c 262 § 14; 1993 c 221 § 9.]

#### **NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.100**

**Parties' liability.**



A party acting under this chapter is not liable for another party's actions under this chapter.

[1993 c 221 § 11.]

#### **RCW 90.64.110**

##### **Rules.**

The department may adopt rules as necessary to implement this chapter.

[1993 c 221 § 12.]

#### **RCW 90.64.120**

##### **Department's authority under federal law or chapter [90.48](#) RCW not affected.**

Nothing in this chapter shall affect the department's authority or responsibility to administer or enforce the national pollutant discharge elimination system permits for operators of concentrated dairy animal feeding operations, where required by federal regulations or to administer the provisions of chapter [90.48](#) RCW.

[1993 c 221 § 13.]

#### **RCW 90.64.130**

##### **Data base.**

(1) By October 1, 1998, the department, in consultation with the \*advisory and oversight committee, shall develop and maintain a data base to account for the implementation of this chapter.

(2) The data base shall track registrations; inspection dates and results, including findings of violations; regulatory and enforcement actions; and the status of dairy nutrient management plans. In addition, the number of dairy farm inspections by inspector shall be tallied by month. A summary of data base information shall be provided quarterly to the \*advisory and oversight committee.

(3) Any information entered into the data base by the department about any aspect of a particular dairy operation may be reviewed by the affected dairy producer upon request. The department shall correct any information in the data base upon a showing that the information is faulty or inaccurate. Complaints that have been filed with the department and determined to be unfounded, invalid, or without merit shall not be recorded in the data base. Appeals of decisions related to dairy nutrient management plans to the pollution control hearings board or to any court shall be recorded, as well as the decisions of those bodies.

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.140**

**Technical assistance teams -- Standards and specifications for dairy nutrient management plans.**

(1) The conservation commission shall establish four dairy nutrient management technical assistance teams by June 1, 1998. The teams shall be geographically located throughout the state. Each team shall consist of one or more professional engineers, local conservation district employees, and dairy nutrient management experts from Washington State University. The purpose of the teams is to:

(a) Actively develop and promote new cost-effective approaches for managing dairy nutrients; and

(b) Assist dairy farms in developing dairy nutrient management plans.

(2) By January 1, 1999, each team shall develop one or more initial sets of standards and specifications to assist dairy producers in developing and implementing dairy nutrient management plans. Standards and specifications developed by a technical assistance team shall be appropriate to the soils and other conditions within that geographic area and shall be reviewed by the \*advisory and oversight committee.

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.150**

**Dairy waste management account.**

The dairy waste management account is created in the custody of the state treasurer. All receipts from monetary penalties levied pursuant to violations of this chapter must be deposited into the account. Expenditures from the account may be used only for the commission to provide grants to local conservation districts for the sole purpose of assisting dairy producers to develop and fully implement dairy

nutrient management plans. Only the chairman of the commission or the chairman's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter [43.88](#) RCW, but an appropriation is not required for expenditures.

[1998 c 262 § 15.]

#### **RCW 90.64.160**

##### **Grants for dairy producers -- Statement of environmental benefits -- Development of outcome-focused performance measures.**

In providing grants to dairy producers, districts shall require grant applicants to incorporate the environmental benefits of the project into their applications, and the districts shall utilize the statement of environmental benefit[s] in their prioritization and selection process. The districts shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the program. The commission shall work with the districts to develop uniform performance measures across participating districts. To the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW [43.41.270](#). The commission shall consult with affected interest groups in implementing this section.

[2001 c 227 § 4.]

#### **NOTES:**

**Findings -- Intent -- 2001 c 227:** See note following RCW [43.41.270](#).

#### **RCW 90.64.800**

##### **Reports to the legislature.**

The department, in conjunction with the conservation commission and \*advisory and oversight committee, shall report to the legislature by December 1st of each year until 2003, on progress made in implementing chapter 262, Laws of 1998. At a minimum, the reports shall include data on inspections, the status of dairy nutrient planning, compliance with water quality standards, and enforcement actions. The report shall also provide recommendations on how implementation of chapter 262, Laws of 1998 could be facilitated for dairy producers and generally improved.

The conservation commission shall include in the report to the legislature filed December 1, 1999, an evaluation of whether the fiscal resources available to the commission, to conservation districts, and to Washington State University dairy nutrient management experts are adequate to fund the technical assistance

teams established under RCW [90.64.140](#) and to develop and certify plans as required by the schedule established in RCW [90.64.026](#). If the funding is insufficient, the report shall include an estimate of the amount of funding necessary to accomplish the schedule contained in RCW [90.64.026](#).

[1998 c 262 § 17.]

**NOTES:**

**\*Reviser's note:** The dairy nutrient management program advisory and oversight committee was created in section 8, chapter 262, Laws of 1998, which was vetoed.

**RCW 90.64.810**

**Dairy nutrient management task force. (*Expires June 30, 2004.*)**

(1) A dairy nutrient management task force is created that shall be comprised of no more than \*fifteen members, who are appointed as follows:

(a) Two members of the house of representatives, one from each major caucus, appointed by the co-speakers of the house of representatives;

(b) Two members of the senate, one from each major caucus, appointed by the president of the senate;

(c) A representative of the department of ecology, appointed by the director of ecology;

(d) A representative of the state conservation commission, appointed by its executive secretary;

(e) A representative of local conservation districts, appointed by the president of a state-wide association of conservation districts;

(f) A representative of local health departments, appointed by the Washington state association of local public health officials;

(g) A representative of commercial shellfish growers, appointed by a state-wide organization representing oyster growers;

(h) Four representatives of the dairy industry, appointed by a state-wide organization representing the dairy industry in the state;

(i) A representative of an environmental interest organization with familiarity and expertise in water quality issues, appointed by

a state-wide organization representing environmental interests;

(j) A representative of the United States environmental protection agency, appointed by the regional director of the agency if the agency chooses to be represented on the task force; and

(k) A representative of the United States natural resources conservation service, appointed by the state conservationist of that agency for this state, if the agency chooses to be represented on the task force.

(2) The task force shall convene as soon as possible upon appointment of its members. The task force shall elect a chair and adopt rules for conducting the business of the task force. Staff support for the task force shall be provided by the Washington state conservation commission.

(3) This section expires June 30, 2004.

[2000 c 147 § 1.]

**NOTES:**

**\*Reviser's note:** A total of fifteen members is required to be on the task force. If representatives are appointed under both subsection (1)(j) and (k), the total number of task force members is sixteen.

**Effective date -- 2000 c 147:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 27, 2000]." [2000 c 147 § 5.]

**RCW 90.64.811**

**Dairy nutrient management task force -- Recommendations. (Expires June 30, 2004.)**

(1) By December 31, 2000, the task force shall recommend to the department and to the legislature:

(a) Clarification of key terms and phrases such as, but not limited to, "potential to pollute," that are used in the administration of this chapter and other statutes on water quality;

(b) How frequently dairy nutrient management plans should be updated, considering the evolution of technical standards developed by the natural resources conservation service;

(c) Considering the report under section 3, chapter 147, Laws of

2000, the disposition of penalties collected from dairy producers under chapter [90.48](#) RCW;

(d) Considering the report under \*section 4 of this act, recommended sources of funding to meet the needs identified in the report;

(e) The extent to which engineering expertise is required to implement the provisions of this chapter;

(f) How to address responsibility for contamination originating from neighboring farms; and

(g) Clarification of the duties of the department as they pertain to initial inspections of dairy farms.

(2) The task force shall make recommendations to the department and to the legislature on any other issues, and at such times, as the task force deems important to the successful implementation of this chapter.

(3) This section expires June 30, 2004.

[2000 c 147 § 2.]

**NOTES:**

**\*Reviser's note:** Section 4 of this act was vetoed.

**Effective date -- 2000 c 147:** See note following RCW [90.64.810](#).

**RCW 90.64.900**

**Effective date -- 1998 c 262.**

This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 1, 1998].

[1998 c 262 § 22.]